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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,260	09/11/2003	Panagiotis Kinigakis	79353	5048
22242	7590	07/19/2004	EXAMINER	
FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			SIPOS, JOHN	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/660,260

**Applicant(s)**

KINIGAKIS ET AL.

**Examiner**

John Sipos

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/17/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### ***REJECTIONS OF CLAIMS BASED ON FORMAL MATTERS***

The following is a quotation of the second paragraph of 35 U.S.C. ' 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1-29** are rejected under **35 U.S.C. ' 112, second paragraph**, as being **indefinite** for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preambles of claims 1 and 27 recite a “vertical” form-fill-seal machine; however the mechanisms set forth in the claims provide no structural support for such a device. Therefore, the scope of the claims is indefinite since it is not clear whether the claimed invention encompasses a vertical machine.

Claims 3 and 26 recite a “heat sink” which has no proper antecedence in the claims. Furthermore, this term is not used in the specification.

In claim 7, line 2, “said the” should be replaced with —said--.

The dependency of claim 8 should be changed to claim 7.

In claim 9, line 1, “er” should be deleted.

Claim 26 refers to “said pair of seal bars”; however claim 1 sets forth two different pairs of seal bars. The claim should specifically refer to one of the seal bars of claim 1.

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### ***REJECTIONS OF CLAIMS BASED ON PRIOR ART***

The following is a quotation of 35 U.S.C. ' 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to

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a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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**Claims 1,2,9-11,13,15,22-25,27 and 28** are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Van Erden (6,327,837). The patent to Van Erden shows a vertical form-fill-seal packaging apparatus comprising of various embodiments and which comprise, for example, in Figure 4 a supply of wrapping material 32 carrying longitudinal fasteners and sliders a collar member 36, a pair of longitudinal seal bars 40 and a pair of side seal bars 52. The claimed fastener supply, web drive, fastener seal bars and peel seal bars are inherently present in the Van Erden device since Van Erden discloses the application of a continuous zipper (column 3, line 55 et seq.), the feeding of the web to the vertical form-fill-seal machine, the sealing of the fastener to the film web at the x's (column 3, line 51 and column 4, line 21) and forming of a peel seal 28. Inherently the mechanisms to perform these operations must be present in the apparatus of Van Erden. Furthermore, the use of "pairs" of seal bars is well known in the art to heat and press on the material to be sealed (examples can be seen at 40 and 52) and using pairs of fastener and peel seal bars would have been obvious to one skilled in the art.

Regarding claims 2,10 and 25, the incorporations of a "tapered portion" in the seal bars, the length of the fastener flanges and the use of A-shaped fasteners are matters of design without further recitation of the use, function etc of these elements. The shape of the seal bar and fastener and the size of the flanges are not critical to the subject matter claimed in these claims or the structure of the apparatus and any shape/size would work equally well.

**Claim 3,4,14,21,26 and 29** is rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Van Erden (6,327,837)as applied to the claims above, and further in view of the patent to Terminella (6,047,521). The Van Erden lacks the use of a sensor to control the position of the packaging web. The patent to Terminella shows a vertical form-fill-seal machine comprising of a film web supply 24, a web drive 26, a fastener supply 64, a sensor 118 to control the feed of the web and the fastener (see column 5, line 61 et seq.), a folding collar 32, a pair of longitudinal seal bars 88,90, a heat sink 46 (see Figure 3) supported by the collar and which is positioned between the package walls while the seal bars seal the package and a pair of cross seal bars 132,134. The heat sink provides for a support for the package walls during the sealing operation. It would have been obvious to one of ordinary skill in the art to provide the Van Erden machine with a heat sink to provide support for the sealing bars and with a drive control mechanism to properly synchronize the web and the fastener strips as shown by Terminella.

**Claims 5 and 6** are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Van Erden (6,327,837)as applied to the claims above, and further in view of the patent to Laguerre (3,701,191). The patent to Van Erden does not show how the slider is inserted onto the fastener. The patent to Laguerre shows a slider-applying device which comprises a fastener activation member 8 that opens the fastener and a slider installation member 12 that applies the slider onto the fastener while the fastener is open. It would have been obvious to one of ordinary skill in the art to provide the Van Erden machine with a slider-applying device as shown by Laguerre to insert the slider onto the fastener.

**Claim 12** is rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Van Erden (6,327,837)as applied to the claims above, and further in view of the patent to May

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(5,904,425). The Van Erden lacks a peel seal between the fastener and one of the package walls. The patent to May shows the forming of various bag and slider/fastener combination wherein the fastener's longer flange, for example in the Figure 1 and 13 embodiments, is sealed to one package wall with peel seal 28,228 to make the opening of the web easier. It would have been obvious to one of ordinary skill in the art to provide the bag of Van Erden with a peel seal between the long flange of the fastener and one package wall to ease the opening of the web.

**Claim 16** is rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Van Erden (6,327,837) as applied to the claims above, and further in view of the patent to Tillman (6,412,254). The patent to Van Erden lacks an slider accumulating track. The patent to Tilman shows a bag forming apparatus which comprises a web supply 250, fastener supply 220, a slider supply 224, a curved slider accumulation track 225, and a slider installation member 226. It would have been obvious to one of ordinary skill in the art to provide the Van Erden machine the slider attachment mechanism, including the track, of Tilman to automatically apply the sliders to the fastener.

**Claims 17 and 18** are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Van Erden (6,327,837) as applied to the claims above, and further in view of the patent to Buchman (6,293,896). The patent to Van Erden lacks the use of tension rollers to feed the fastener to the packaging machine. The patent to Buchman shows bag forming apparatus which comprises a web supply 210, fastener supply 220, rolls to apply tension to the fastener to compensate for the intermittent feeding (column 4, lines 49-55), a slider supply 23 and a slider installation member 226. it would have been obvious to one of ordinary skill in the art to provide the Van Erden machine with tension rollers as taught by Buchman to apply tension to the

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fastener to compensate for the intermittent feeding. Regarding claim 18, the use of movable/balance rolls to provide tension is well known in the packaging art.

**Claims 19 and 20** are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Van Erden (6,327,837) as applied to the claims above, and further in view of the patent to Herrington (5,131,121). The patent to Van Erden lacks the use of a stop forming station. The patent to Herrington shows a slider applying operation that comprises horn 31 and anvil 32 movable toward the fastener to crush the fastener and thereby create stops for the slider. Since the Van Erden patent sets forth the stomping of the fastener (column 3, line 63), it would have been obvious to one of ordinary skill in the art to provide Van Erden with movable crushing tools as shown by Herrington.

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### ***ALLOWABLE SUBJECT MATTER***

**Claims 7 and 8** are objected to as being dependent upon a rejected base claim, but **would be allowable if rewritten in independent form** to include all of the limitations of the base claim and any intervening claims and if amended to overcome the indefiniteness rejection.

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### ***MISCELLANEOUS***

The continuing data regarding the parent application should be updated on the first page of the specification.

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***ADDITIONAL REFERENCES CITED***

The cited prior art is made of record but has not been relied upon in the rejection of claims. However, the prior art is considered pertinent to applicant's disclosure.

Note the patent to Ausnit ('975) showing a heat sink in between the bag walls during the longitudinal sealing.

The patents to Van Erden ('857), Bois and McMahon ('722) show vertical form-fill-seal machines applying fasteners and sliders to the package material.

The patent to McMahon shows a movable balance roller to control the tension in feeding a web.

The patents to Machacek show A-shaped fasteners.

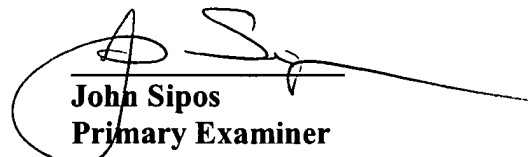
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Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 872-9302**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703) 308-2187.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.

  
**John Sipos**  
**Primary Examiner**